

## APPEALS

- Can clients whose child care cases are closed due to lack of funding appeal the closure?

**RESPONSE:** Yes (Volume VII, Section I, Chapter H, page 4). Factor in payment for at least three months when closing cases due to inadequate funding as it may take that long for the cases to be heard in appeal. The agency must pay, if client appeals within 10 days of receiving notice to close, until the appeal is heard and decided.

## APPLICATION

- Do child care applications have to have face-to-face interviews or can the application be mailed in?

**RESPONSE:** The application may be mailed in, but it is strongly recommended that the local department not process the application without a face-to-face interview for assessment and service planning (Chapter D, page 22 “Assessment of Needs” and page 33 “Service Plan”). It is very important that the client understand the operations of the program and her responsibilities to report changes and cover her co-payments on time and in the right amount (Chapter D, page 21 “Intake”). No new application is required for redetermination.

- The back of the application under *Rights of Applicant* reads, “Anyone can apply for services. You do not have to live in the county or city for any specific length of time. There are not citizenship requirements for services.” Should the citizenship statement change since the child has to be a citizen?

**RESPONSE:** The child must be a citizen or a qualified alien. The Division of Child Care and Development will soon begin working on a child care application to replace the generic Service Application (032-02-0302-04).

## BUDGET LINES

- Why does child care subsidy for TANF working and TANF educational come out of different budget lines?

**RESPONSE:** Chapter D, page 67 provides the budget line definitions. TANF working is budget line 87104. TANF working child care subsidy assists (VIEW exempt) working families receiving TANF benefits. If there is a need for child care and all eligibility requirements are met, recipients of TANF are eligible for needed child care to support employment. For TANF working child care there is no co-payment. The funding for this budget line is 50% federal, 40% state, and 10% local. This is also a mandated budget line.

TANF Education/Training (non-VIEW) comes from budget line 88103 which requires a 10% local match or budget line 88304 which is 100% federally funded. For TANF education and training child care in either budget line, there is no co-payment. These budget lines are not mandated.

- Need clarification about paying for TANF education from Fee Funds. What if a TANF/Non-VIEW client works and attends education/training program, which funds do you use?

**RESPONSE:** Chapter D, page 13. 6. “If a TANF recipient is both working and in education/training the agency may choose to pay for the child care from both of the applicable budget lines with the payment separated based upon the hours spent in each activity, or the agency may provide child care from the budget line for which the majority of hours are committed.”

## **CITIZENSHIP**

- It is correct that we do not have to do the citizenship form for Transitional cases as this has already been completed when they were on TANF?

**RESPONSE:** Yes [Chapter D, page 23, Exception (a)].

- If child’s birth has been verified via new Medicaid policy has citizenship been met?

**RESPONSE:** If a child’s citizenship has been verified for Medicaid purposes, the child care coordinator may accept a copy of that verification. However, Medicaid does not require verification of citizenship for all children receiving Medicaid.

- What is a “qualified alien?” Term is on a slide used in training the new child care policy, but is not in the definitions section.

**RESPONSE:** The definition of qualified alien is located in Appendix D, B.2. (pages 69-70).

- Can a refugee receive Transitional child care?

**RESPONSE:** Yes, if the child meets the citizenship/alien requirements for child care and the family is otherwise eligible for Transitional child care (see Chapter D, pages 22-23 and Appendix D for more information).

- Will we ever need to validate citizenship for parents who aren’t on the TANF grant as we are evaluating their income for eligibility or will we continue to approve child care for an illegal parent?

**RESPONSE:** The Administration for Children and Families of the U.S. Department of Health and Human Services has clarified that only the citizenship of the child is relevant for child care eligibility purposes.

## COHABITATION

- What criteria are used to determine cohabitating man/wife?

**RESPONSE:** The dictionary defines cohabit as to live together as spouses. Chapter D, page 8 defines parent as “a parent by blood, marriage, or adoption and also means a legal guardian, person cohabiting (as man and wife) with the natural or adoptive parent of a minor child(ren), or other person standing in loco parentis.” Interview skills will be required to discern if the relationship is that of a man and wife or a roommate situation.

## CO-PAYMENTS

- What about the \$25.00 co-pay some of our non-financially responsible people pay now... does it stop immediately or when income is reviewed at 250% level at redetermination?

**RESPONSE:** Chapter D, page 28, 6. “NOTE: For Fee, FSET, and Transitional child care cases open on the effective date of this policy, local departments must begin counting the income of legal guardians, other adults standing in loco parentis, and their minor children at the next annual review or at the time a redetermination is performed due to the receipt of other information that affects eligibility.”

The \$25.00 minimum co-payment has been eliminated in policy. There now is no minimum co-payment, but there will be a co-payment for non-financially responsible “parents” who have income unless they meet an exception listed in Chapter D, page 31, D. 2. “All families receiving child care subsidy have a co-payment responsibility of 10% of their countable monthly gross income or the co-payment established by an approved local alternate scale, except:...”

- Is it correct to round the 10% co-pay for example \$1026.83 is the co-pay \$102.68 or 103.00?

**RESPONSE:** For ease of administration, co-payment amounts may be rounded down (so as not to exceed 10% of the family unit’s gross countable income). In this case it would be \$102.00.

- Early Head Start center does not collect co-payments for families, where one is assessed. Are they still in compliance? Just ignore the non-payment because center chooses not to collect?

**RESPONSE:** Chapter D, page 31, D. 2. states that families “have a co-payment responsibility of 10% of their countable monthly gross income.” If the center does not collect the co-payment, that is a business decision they have made and it has no impact on the child care subsidy payment.

## CPS

- Is providing subsidy for CPS reasons mandated in all agencies and all budget lines/programs?

**RESPONSE:** It is not mandated in all budget lines/programs. See “Supporting Approved Activity” for each child care program (pages 12-18 of Chapter D). CPS is an approved activity for TANF child care, Fee child care, and Head Start Wrap-Around child care and mandated for children in those child care programs (see response below).

- Can localities choose not to provide child care to CPS cases for counseling, respite, etc. (if parent is not working)?

**RESPONSE:** See “Supporting Approved Activity” for each child care program (pages 12-18 of Chapter D). CPS is an approved activity for TANF child care, Fee child care, and Head Start Wrap-Around child care. If a family is eligible in one of these programs and is receiving CPS in a case open through family assessment track, investigation track, or CPS on-going, the local department **must pay for child care for the period of time the parents are involved in activities that are included in the CPS service plan.**

## ELIGIBILITY

- Does TANF track immunizations for the TANF capped child?

**RESPONSE:** No, TANF tracks immunizations for TANF-eligible children. A TANF capped child is not eligible for TANF.

- Do you count the income of caretakers for any TANF case?

**RESPONSE:** No, Chapter D. page 12, IV A. b. “Recipients of TANF (VIEW and non-VIEW) are considered income eligible for child care subsidy and services without a determination of the family’s income eligibility.”

- Disregarded income: New policy states Transitional TANF payment of \$50.00 per month is excluded. If it is a 2-parent household, would we exclude the \$100.00?

**RESPONSE:** Chapter D page 29 states, “Transitional payments of \$50.00 per month to former VIEW participants” are disregarded. Therefore, the \$100.00 per month Transitional payments to a 2-parent household (\$50.00 to each) would be disregarded.

- If the child is eligible by TANF standards to receive TANF, but does not because he receives SSI, does the grandparent’s income have to be assessed?

**RESPONSE:** If this is the only child in the family unit (grandparent is not in a TANF assistance unit - Chapter D, page 13), this would be evaluated as a Fee Child Care case and the grandparent’s income included in the income eligibility determination.

- Payees (grandparents, other relatives) for SSI children who would have been on TANF if it were not for the SSI. Do we cover this child under TANF or Fee System? Chapter D. page 13, 3-c does not address the payee situation, but talks about a parent on the TANF grant.

**RESPONSE:** TANF child care subsidy is available for needed child care for SSI children who would have been on TANF if it were not for the SSI only if the parent is/was on the TANF grant (see definition of “parent” on page 8 of Chapter D). If the payee is standing in loco parentis and the payee is on the TANF grant, TANF child care may be paid for this child. Otherwise, the child should be evaluated for Fee Child Care.

- Parents are applying for child care for a grandchild on behalf of a minor parent. Do we still follow current policy or look at income on 250% scale?

**RESPONSE:** If the grandparents apply for child care, we assume they are standing in loco parentis for the grandchild. The family unit would consist of the grandparents, minor parent and grandchild. Their countable gross monthly income would be compared to 250% of the federal poverty guidelines since the grandparents are not responsible under Virginia law for the support of the grandchild (Chapter D, page 28).

- A 17-year old high school student applies for child care for her infant for the hours the student is in school. The student and baby live with the student’s mother who stays at home. The student’s mother has not assumed responsibility for the day-to-day care and supervision of the baby. Who is in the family unit? Is there a need for child care?

**RESPONSE:** Chapter D, page 27 states that the family unit consists of “parents” and “all the parents’ children under age 18.” The infant is the recipient of child care and the parent of the infant is the student. The family unit would include only the student and infant. The student needs child care

for the hours she attends school. The student's mother is not responsible for providing care for her grandchild.

The Division of Child Care and Development is seeking advice on this issue from the Attorney General's Office so this interpretation of policy may change as a result of legal clarification.

- In an in loco parentis situation, would you count the income of a boyfriend?

**RESPONSE:** You would have to evaluate if the boyfriend was standing in loco parentis for the children under the age 18 (assumed responsibility for the day-to-day care and supervision of the children). If so, his income would be counted. If he was not standing in loco parentis, but is cohabiting with the individual who was standing in loco parentis, you would not count his income because he is not cohabiting with the natural or adoptive parent of the children [Chapter D page 27 C. 4. a. (5) and (6)].

- We have a parent who applied this summer for subsidy as she was working. We now find out she is a full time student at a university out of town. She only comes home on the week-ends. Her child is in Head Start and grandmother works. Grandparents do not have custody of child. Can we continue to pay?

**RESPONSE:** The grandparents are standing in loco parentis and they should apply for the child care subsidy. What this client needs to support her activities exceeds the definition of child care services - "those activities that assist eligible families in the arrangement for and/or purchase of child care for children for care that is less than a 24 hour day." (Chapter D, page 4)

- Do we count as income rent payments made on behalf of the client? What if the payments are made by a person who is financially responsible for the children? New policy says don't count the vendor payments made by non-financially responsible persons. This is different that the former language in Chapter B.

**RESPONSE:** New policy (Chapter D, page 30) states that "Vendor payments made by non-financially responsible persons" are disregarded. If the payments are made by financially responsible persons, they are counted.

- Do we not count earnings of a child under 18 even if this child is the minor parent applying for child care subsidy?

**RESPONSE:** The earnings are not counted. Chapter D, page 29 – disregard the "earnings of a child under the age of 18 years" for income eligibility and co-payment determinations.

- If an uncle has custody of a 14-year old special needs child not receiving TANF, isn't his income counted? The child receives SSI.

**RESPONSE:** The gross countable income of the uncle (both earned and unearned) will be considered and compared to 250% of the federal poverty guidelines to determine income eligibility. The SSI is disregarded income (Chapter D, page 28 "Countable Income" and "Disregarded Income," page 29).

- Does a caretaker have to have legal custody or just physical custody of the child? Are custody papers required? Is petition for custody acceptable?

**RESPONSE:** Legal custody is not required, but the child should be living with the applicant. The applicant's declaration is all that is required. Although custody papers are not required, if an applicant has these documents to submit, they are just added verification for the case. A petition for custody shows the intent of gaining custody, but again it is not required.

- What is the difference between legal custody and legal guardian and loco parentis?

**RESPONSE:** See definition in Chapter D on page 7 – "in loco parentis means an adult(s) with whom the child is living who has assumed responsibility for the day-to-day care and supervision of the child." An individual can be standing in loco parentis without legal custody or legal guardianship being granted by a parent or court.

- What if a relative has children living with her and custody is in another state? Would she be standing in loco parentis or be a legal guardian?

**RESPONSE:** She would be considered to be standing in loco parentis for the children unless appointed legal guardian by a parent or court. If custody is actually with another state, it should be determined if the individual or agency with custody needs to be contacted and informed as to the location of the children.

- What if the client's (caretaker/grandmother) daughter is in the home and the grandmother has legal custody of grandchildren, is the daughter part of the household?

**RESPONSE:** If the daughter living in the home is the biological parent, adoptive parent or stepparent of these children, she must be included in the family unit. If the daughter is not the parent of these children, but is a minor child of the grandmother, she must be included in the family unit (Chapter D, page 27 C. 4).

- Grandmother has responsibility for her biological grandchild. She is married, but he is not the biological grandfather. Do we or do we not count his income?

**RESPONSE:** Chapter D page 27, 4. Determining Family Unit, the grandmother is standing in loco parentis. You would assume her husband who is living in the home is also standing in loco parentis and his income would also be counted.

- A case involves a grandmother (who has legal custody of her grandchild) and a minor mother. The grandmother receives TANF for both her child and grandchild and has applied for child care. Would this be considered a two parent household? Also, minor mom does not work or attend school, so would we evaluate good cause since this is a two parent household?

**RESPONSE:** Yes, this would be considered a two parent household since the grandmother has applied for services (is standing in loco parentis) and the minor mom is the biological parent. Good cause would have to be evaluated.

- Aunt applies for child care for her two nieces that she has custody of and also for her two children. Does the agency look at the 250% of poverty level for the entire family or would they need to do 2 separate income evaluations? Look at 150% for her children and then 250% for her nieces? If the agency looks at both income levels, it could be that the Aunt may not be eligible for child care for her children, but would be eligible for child care for her nieces.

**RESPONSE:** The family unit consists of the aunt, her two nieces and her two minor children (“Determining Family Unit” Chapter D, page 27). The family’s income is compared to 250% of the federal poverty guidelines because the applicant is not responsible for the support of the two nieces (“EXCEPTION” Chapter D, page 28).

- Do we not count children over 18 as part of the household even if they are still in high school and/or still on Food Stamp case?

**RESPONSE:** Chapter D, page 22 - only children under 18 years of age are included in the family unit.

- In dealing with “in loco parentis,” how can we prevent fraud? If the parent is found to be ineligible, it is likely she will have a grandparent or another person come in to apply claiming to be standing in loco parentis. How will we be sure it is not a loop hole? What things are required/verified since it was said they do not have to have or show legal custody documentation?

**RESPONSE:** Child care policy has never required the caretaker to show legal custody documentation.



In current policy, the person making application is assumed to be standing in loco parentis if they are not legally responsible under Virginia law. Keen interviewing skills will be required to properly assess the situation. Some questions that may help make a determination are: Where is the biological parent? Is the child living with you? Where does the biological parent live? How long have you been caring for the child?

- A TANF case closes due to excess income. The family also is over the income limit for Transitional Day Care (TDC). Would the family ever be eligible for the TDC eligibility timeframe months if they were not eligible to receive TDC from the beginning of case closure?

**RESPONSE:** Chapter D, page 16, “The transitional eligibility period for eligible children of former TANF recipients starts the first day of the month following closure of the TANF case and ends 12 months later. Example: A customer’s TANF case is closed. She does not find employment for two months. She can apply for Transitional child care at the point she is employed for her remaining months of Transitional eligibility (in this case 10 months).”

If a former TANF recipient is over income for only 3 months of the 12-month transitional eligibility period and then her income decreases, she is can apply for Transitional child care for her remaining months of Transitional eligibility (in this case 9 months).

- Transitional cases, can they receive care to attend school only?

**RESPONSE:** No, unless they are former VIEW participants in training approved and monitored by the VIEW worker as part of VIEW Transitional Employment and Training (Chapter D, page 15).

## **FRAUD/OVERPAYMENTS/ DISQUALIFICATION**

- Does the new fraud policy apply to those individuals currently making payments as a result of fraud and non-fraud overpayments prior to October 1, 2006?

**RESPONSE:** Yes.

- How long do you give clients to make payments on fraud and non-fraud overpayments before closing the case? If payments are missed, how long before the case is closed? How much time before initiating a NOA to close?

**RESPONSE:** Chapter D, page 61, “parents who fail to make three consecutive payments according to the written repayment schedule will be disqualified from participating in the child care subsidy program until all

delinquent payments are made.” On the date the third payment is missed, send the Notice of Action to close the case following the policy for Notices of Action in Chapter D, J. 3. b. on page 38).

- There is fraud on the provider’s part and they agree to the repayment schedule. Can we have the money taken out of their reimbursement check each month?

**RESPONSE:** If a provider has been convicted of fraud by a court, the provider is permanently disqualified from participation in the Child Care Program and should not be getting reimbursement checks (Chapter D, page 62). If the provider has not been convicted of fraud so is still being paid child care subsidy, taking money from her reimbursement check is not an option in policy (see Central Office Fraud Unit Clearinghouse # 2003-02).

- What is the rationale for 1% gross income payment for fraud repayment? Amount is too low to have any impact on family/applicant. With high cost of child care overpayments, unrealistic that cost of service will ever be recouped. Clients will not respect this as a repayment.

**RESPONSE:** This amount was determined to be appropriate so to not create additional hardships on children of these families who have very low income. For example, at 150% of poverty a family of 4 has an income of \$2500 per month. This is income before taxes, etc. are deducted from the pay. A 1% repayment would be \$25.00 per month. For families with income this low, who are paying a child care co-payment, their daily living expenses, and in many cases paying the difference between the market rate and the provider’s actual cost of child care, this payment is fair.

- Has the State developed a repayment agreement? If not can we adapt existing forms from other programs and use them?

**RESPONSE:** No, the State has not developed a repayment agreement for Child Care payments. Localities may adapt existing forms to use for Child Care repayments and adhere to policy in Chapter D, page 61 D. 2.

- A family has a fraud overpayment. The court did not order repayment, but they want to repay. Is this allowed?

**RESPONSE:** Overpayment due to fraud or non-fraud overpayment (except for agency-caused errors) must be repaid (Chapter D, pages 60-61).

“Repayment will be in either a lump sum or according to a written repayment schedule between the responsible person and the local department. The repayment schedule must be signed by the responsible person and an authorized local department representative.

In establishing the repayment schedule for a parent, local departments must not require monthly repayment amounts that exceed 1% of the family’s gross monthly income.” (Chapter D, page 61).

If the parent chooses to repay in a lump sum or pay an amount that exceeds 1% of the family’s gross monthly income, this is acceptable.

- Can TANF recipients be disqualified?

**RESPONSE:** Yes, for conviction of fraud, for failing to enter into a repayment agreement, and for failing to make repayment according to the agreement with the local department (Chapter D, page 61).

- Clarification on the disqualification process on page 61. What is the disqualification process for people who have not gone to court?

**RESPONSE:** Parents who fail to enter into a repayment agreement for overpayments not caused by local department error are to be sent a Notice of Action to close the case following the policy for Notices of Action in Chapter D, J. 3. b. on page 38.

Parents who fail to make three consecutive payments according to the written repayment schedule will be disqualified from participating in the child care subsidy program until all delinquent payments are made. On the date the third payment is missed, send a Notice of Action to close the case following the policy for Notices of Action in Chapter D, J. 3. b. on page 38.

## **GOOD CAUSE**

- What guidelines are set out to evaluate the person’s basis for good cause exemption?

**RESPONSE:** Chapter D page 7, “good cause means a valid reason why, in a two-parent household, a parent or any other person under Virginia law responsible for the support of the children cannot provide the needed child care.” The person needs to provide verification of the reason, i.e., illness (mental or physical), disability, court-ordered not to be left alone with the children, etc.

## LOCAL DEPARTMENT CONTACTS

- Quarterly contacts have never been allowed by letter alone, according to Volume VII, Chapter B, case management policy. Has this changed only for child care contacts?

**RESPONSE:** In revised Chapter D policy, the frequency of the contacts has changed from quarterly to every 4 months. At least every 120 days, the local department must have a direct (face-to-face or telephone) contact with a member of the case household or the provider. Only one of the 3 contacts may be with the provider (Chapter D, page 36).

## NOTICE OF ACTION

- How much Notice of Action (NOA) should we give caretakers that case will close due to over income 250%?

**RESPONSE:** As much notice as possible, but no less than 10 days prior to the effective date of the action as required by Chapter D, pages 37-38.

- In the policy (Chapter D, page 37), it states the NOA is to be sent 10 days in advance of the date the action is to become effective. We were questioned on whether it is 10 working days or 10 calendar days.

**RESPONSE:** It is 10 calendar days; if mailed, send 14 calendar days in advance.

## OPTIONAL FIVE YEAR LIMIT

- We were told previously (Jan 31, 02) that receipt Head Start Wrap-Around child care does count in the 5 Year Limit of Child Care?

**RESPONSE:** Chapter D page 19, E. 5. "Receipt of Transitional, Head Start Wrap-Around, FSET or TANF child care does not count toward the five years."

- 5-year limit - clarify does Head Start time count? New policy states yes. Has this always been the case?

**RESPONSE:** Chapter D, page 19 says receipt of Head Start Wrap-Around does not count toward the five years.

- If we decide to begin a five-year limit on receipt of subsidy, can we count the months of child care received prior to the beginning of implementation of the five-year limit? Why do we not count the Head Start Wraparound years?

**RESPONSE:** Current ongoing Fee cases must be given a 12 month notice, and then the prior years of Fee child care can be counted. Do not count the months of receipt of Transitional, FSET, TANF, or Head Start Wrap-Around child care because the five-year limit only applies to Fee child care and these other child care programs are not Fee child care. See page 19 of Chapter D.

- Does the Five Year Limit apply when a person standing in loco parentis receives child care for 5 years and now the birth parent is applying for child care?

**RESPONSE:** No, the five year limit does not apply since the case will be opened under a different family. Chapter D, IV, E. 5. on page 19 refers to a family receiving child care for five years; it is not specific to a child receiving subsidy for five years.

## **PAYMENTS**

- Does Licensing explain to providers that they are not allowed to charge DSS a different rate than they charge the general public?

**RESPONSE:** We do not rely on Licensing staff to convey this information since this is a Child Care Program requirement, not a Licensing requirement. All providers used by your agency should be informed of this information.

- Parent works 5 days a week, 12 hours each day for a total of 60 hrs a week. Can we pay the provider extra as they are providing more than 40 hours a week of care?

**RESPONSE:** Yes, child care is to be paid to support the approved activity (see Chapter D, page 54, “Total Cost of Care.”) Use either the hourly rates or daily rates in addition to the weekly rate, whichever is more economical (Chapter D, page 55, “Unit Price”).

- If paying for before and after school care and there is a snow day and full time care is needed for that day, can we pay this or should the parent pay?

**RESPONSE:** The agency should factor in the purchase order a certain number of days as snow days or teacher work days. Agency would pay to support the approved activity (see Chapter D, page 54, “Total Cost of Care”).

- What if a child care worker is writing a Purchase Order and the Dolphin system shows the license expires next week? What kind of verification do we need to get to show that the provider is operating legally?

**RESPONSE:** State Board of Social Services’, *General Procedures and Information for Licensure*, 22 VAC 40-80-210 C. states, “should a current

license expire before a new license is issued, the current license shall remain in effect provided that a complete application was filed prior to expiration of the current license and a decision for licensure is pending.” When in doubt, call the licensing inspector listed on the web for that facility and check on the status.

If the Dolphin system shows that the approval of a Voluntarily Registered Family Day Home has expired, contact the VR Contract Agency serving that jurisdiction to check on the status of the registration. The list of Contract Agencies is available at:  
[http://www.dss.virginia.gov/facility/child\\_care/unlicensed/vrfdh/agencies.htm](http://www.dss.virginia.gov/facility/child_care/unlicensed/vrfdh/agencies.htm)

- Can the locality cap the summer activity fee (as a part of the annual registration fee) at one week of care?

**RESPONSE:** Yes, as long as the cap is applied uniformly in all cases and with all providers.

- If the grandmother lives in the home and wants to become the child care provider because the granddaughter needs child care while mom works - can this be paid? How would it be categorized?

**RESPONSE:** Chapter D, VI, A. 3. on page 42, “A child’s relative may be paid as a child care provider as long as the individual is not part of the public assistance unit or legally responsible for the child(ren) needing care.” For Child Care, the “public assistance unit” is the family unit. The provider would be categorized as a family day home provider and must meet all provider requirements in Chapter D, VI.

- Our agency considers 9 hours a full day of child care (1 hour for transportation plus 8 hour of work, etc.). With customers working outside the area, transportation time increases. Could or does the local agency have the option to increase a full day to 10 hours (2 hours for transportation plus 8 hours for work?)

**RESPONSE:** Yes, child care is to be paid to support the approved activity (see Chapter D, page 54, “Total Cost of Care”).

- Where do military approved providers fall level 1 or level 2?

**RESPONSE:** Presently, military providers fall under Level 1. Their child care standards have not been documented to meet or exceed Virginia’s child care licensing standards.

- Can we pay for child care for the Karate Centers when centers submit

documentation that they have been approved by a local agency to provide child care for foster care children?

**RESPONSE:** Child care subsidy may only be paid to legally operating child care providers (Chapter D, IV. A.1.b.on page 41). A Karate Center is not a legally operating child care provider unless it is licensed as a child day center.

- Age range: Are we required to use either the Provider's definition or the Division of Licensing's definition of age ranges?

**RESPONSE:** Chapter D page 55, 6. "In applying the appropriate Maximum Reimbursable Rate, the local department may use the age range definitions used by the provider or those used by the Division of Licensing Programs. Once a local department has chosen to use either provider's definitions or to use the Division of Licensing Program's definitions, those same age range definitions must be used in every case."

- Must pay rates charged to public. What if a center won't give the sibling discount because of agency subsidy? Can we demand it?

**RESPONSE:** If the center advertises in any way that they give discounts for siblings, they must offer this to all families or they are in violation of the *Standards for Licensed Child Day Centers* (22 VAC 15-30-50 F) which state, "Every center shall ensure that any advertising is not misleading or deceptive as required by §63.2-1713 of the Code of Virginia."

- Are we able to pay providers retroactively to the date of the receipt of the application when the documents are not received within 45 days of client's application?

**RESPONSE:** Chapter D, page 43, B. 2. a. states, "The checks, statements/affirmations, and documentation of training required in this subsection must be received by the local department before subsidy payments may be made."

Chapter D page 58 c. states, "If due to administrative delay the provider returns required information to the local department more than 45 days after the signed client application is received, payment shall be made retroactive to the date the signed application was received by the local department." See the definition of "administrative delay" on page 4 of Chapter D.

- Would the unavailability of training (especially of first aid and CPR training in rural areas) meet the definition of "administrative delay"?

**RESPONSE:** The unavailability of training meets the definition of administrative delay in that it is "due to circumstances beyond their control."

The provider could not be paid until the training was received, but when received, the payment could go back to the date of application.

- What is the effective date if the provider returns the documents more than 45 and it is not due to an administrative delay?

**RESPONSE:** The effective date would be the date the provider's documents are received and approved.

Chapter D, page 43, B. 2. a. states, "The checks, statements/affirmations, and documentation of training required in this subsection must be received by the local department before subsidy payments may be made." Chapter D, page 57 B. 3. a. states, "No payment may be made until all required documentation is received and approved by the local department."

- If someone wants to become an unregulated provider, they have 45 days to get their required information to us (unless longer due to administrative delay). Is this also the case with the first aid and CPR and training requirements? If they get certification to us within 45 days we can pay retroactive to the date of the service application?

**RESPONSE:** These unregulated providers must have first aid and CPR training before payment may be made (Chapter D, VI, B.9.d. on page 49). They have 12 months to get the 4-hour skills training (Chapter D, VI, B.10.a. on page 51). If they get the first aid and CPR certification to you within 45 days, you can pay retroactively to the date of the service application (Chapter D, VIII, B.3.b. on page 58).

- New providers must be trained prior to approval/payment... how does this affect client? For example the client applies Nov 1<sup>st</sup> and is approved within 45 days, but provider does not get training until Feb 1<sup>st</sup>, we do not owe a payment until Feb? Nothing retro to date of application? Just keep client case open and do 4 month contacts until provider is approved?

**RESPONSE:** For first aid and CPR, new providers must be trained prior to approval /payment (Chapter D, VI, B.9.d. on page 49). The payment may not begin prior to their certification date. In the case of the above example, payment will not begin until Feb 1<sup>st</sup>. The client should be advised to seek a provider who has met all requirements or be prepared to pay out of pocket until approval is granted.

## **PROVIDER REQUIREMENTS**

- What verifications do we need from providers to verify they have attended trainings?



**RESPONSE:** Copies of certificates issued by the trainers should be produced.

- Client applied for day care on August 24, 2006. She wanted to use her mother as a provider. The client was income eligible, and I approved her application, having sent off the background checks on everyone age 18 and over in the mother's household. I am just waiting for the results to come back. If everything does not come back by October 1, 2006, then will this provider have to be certified in CPR and First Aid Training and have the 4 hours of skills training, or can I approve her since all of this was already in the process before October 1, 2006?

**RESPONSE:** The provider was not a "provider receiving child care subsidy payments" on October 1 so does not have 9 months to get the first aid and CPR training, but must receive the training before payment may be made. Chapter D, page 43 "Required Documentation" and page 51 B. 9. d. (3).

The provider has one year from her approval date to get the skills training. Chapter D, page 52 B. 10. e.

- The city limits home providers to 5 children at one time ( a total of 7 counting provider's own children). They must get a conditional use permit from the city before they can keep more than 5 (most requests are denied). State licensing says they tell licensing applicants of the requirements for the conditional use permits, but Licensing still issues licenses allowing providers to keep more than 5 children. Can it be requested that State Licensing give in writing the locality's actual ordinances/rules?

**RESPONSE:** During Licensing training sessions for new providers, it is made very clear that all applicants have the responsibility as business owners to contact their local cities and counties for guidance and clarification of local city and county requirements. The capacity written on licenses issued by the Division of Licensing Programs is based on state licensing rules and regulations, not on local ordinances.

- Do local agencies have to make sure providers are meeting local ordinances and business requirements? In our area this would mean hundreds of dollars.
- **RESPONSE:** No, local departments of social services are not required to have documentation that providers are meeting local ordinances and business requirements. It is the responsibility of the provider to ensure he is operating legally by complying with those requirements.
- Is training necessary for relative providers?

**RESPONSE:** Yes.

- Do all localities that offer provider training have to enter this into the TIPS calendar? Our sessions are free to our providers and always fill up quickly.

**RESPONSE:** Yes, the department needs this to capture the number of sessions being offered in the state. When entering you can indicate the session is open only to area providers. If you have more requests to register than you can accommodate, please email Debra O'Neill at [debra.oneill@dss.virginia.gov](mailto:debra.oneill@dss.virginia.gov) to advise her of the training title and the number you were unable to register. This information would be helpful to the Quality Unit of the Division of Child Care and Development in scheduling the types and locations of fall and spring provider training.

- We are concerned about putting our local training on the on-line TIPS calendar. We don't charge our providers for training and the sessions always fill up quickly just from our providers. We do not have slots available for providers from other localities and are concerned that if it's on TIPS, providers from other localities may want to sign up.

**RESPONSE:** It is still necessary to post this information on the TIPS calendar for documentation purposes (see response above). It can be noted that the class is already full.

- How do I get into the unregulated provider data base to add or delete? It is not available.

**RESPONSE:** In the past this has been a once a year input or upload count. It is not kept current and is not available after the time localities do this once-a-year data entry. This once-a-year input/upload will no longer be required as soon as the Division puts in place the ongoing unlicensed provider data base that will be kept current by localities.

- How can I get the current trainers we use for CPR and first aid training approved for use? They are not listed on the approved list that was given out at training.

**RESPONSE:** Check with your trainers to see if they issue Red Cross, American Heart Association, etc. certification. See list of acceptable certifications on page 49 of Chapter D. If the certification your trainers issue is from one of the organizations listed in the policy, the training is acceptable.

- Is CPR training acceptable from groups like "The Beat Goes On" who use Red Cross Program?

**RESPONSE:** Chapter D page 49 provides a list of organizations approved to provide CPR and first aid certification, “The first aid and CPR certification must have been issued by one of the following.....” If “The Beat Goes On” issues a card stating that it is American Red Cross certification, this is acceptable.

- Why aren’t American Lifeguard Association’s (ALA) and American Health Services’ (AHS) first aid and CPR training on the list of acceptable training organizations listed in child care policy?

**RESPONSE:** When the child care policy was written, Licensing Programs had not issued current approval of the American Lifeguard Association’s CPR and first aid training. Since ALA recently submitted their paperwork to Licensing and were approved, they are now an acceptable CPR/first aid training organization for Child Care.

American Health Services did not need approval since they issue American Safety and Health Institute (ASHI) first aid/CPR certification and ASHI certification is acceptable per Child Care policy (Chapter D, page 49).

- Please provide for us an e-mail copy of the self-certification form without the handout #11 on it.

**RESPONSE:** This document is on the child care web site under “CCD Documents.”

- Does a currently certified emergency medical technician (EMT) or nurse have to also have current first aid and CPR certification?

**RESPONSE:** A currently certified EMT meets (and exceeds) the Child Care Program’s requirements for first aid and CPR training. A nurse is not required to be currently certified in CPR so must have current CPR certification. A currently licensed nurse does not need to have first aid training.

- Under the new requirements for providers, does the certification for CPR have to specifically state it was for infant and children? How about first aid?

**RESPONSE:** CPR must specify it is for children or infants. Not first aid.

- Should not local government-approved recreation programs have to provide a state exemption letter as proof of exemption?

**RESPONSE:** Unlike Religiously Exempt Child Day Centers that are required by the *Code of Virginia* to request a licensing exemption from the Commissioner of the Department of Social Services, these local government-

approved recreation programs do not have to request an exemption and no letter will be issued by the state.

- If a provider has a degree in Early Childhood Education is she/he still required to complete 4 hours of training?

**RESPONSE:** Chapter D page 51, 10. a. “The provider and other individuals who work directly with children must annually complete four hours of skills training relating to child health, safety, and/or development.” There are no exceptions.

- Can it be made mandatory for family members/friends who want to be providers take a reading/writing/math test?

**RESPONSE:** This is not an option in current policy.

- CPR is valid for not more than 2 years. How does this action relate to 3 years for health and safety checklist?

**RESPONSE:** First aid and CPR certifications must be current. The Health and Safety Checklist does not address first aid and CPR.

- For CPR and First Aide Training-how often does it need to be renewed? Even if certificate is only for 2 years, can we renew every 3?

**RESPONSE:** The first aid and CPR certifications must be current. Certificates that are expired do not meet the requirements of Chapter D, IV, B. 9.

- If a parent is a certified foster parent, could they also be a provider with no additional training?

**RESPONSE:** The Division of Family Services advised the Division of Child Care and Development that there are no “certified foster parents.” If a foster parent has current CPR and first aid certification and has documentation that she receives 4 hours of skills training each year in child health, child safety, and/or child development, the person has met the training requirements for child care providers.

- What if currently local agency-approved for both foster care and child care?

**RESPONSE:** If a foster parent has current CPR and first aid certification and has documentation that she receives 4 hours of skills training each year in child health, child safety, and/or child development, the person has met the training requirements for child care providers. If not, this current child care

provider has until 7/31/07 to get first aid and CPR certification and until 9/30/07 to get the 4-hour skills training (and then annually).

- If a current provider (VR, religiously exempt, etc.) fails to self-certify-how long do we give them before payments are stopped? Is the last day of 9 months the last day of payment?

**RESPONSE:** Yes, they have 9 months to self-certify that they have current first aid and CPR certification (Chapter D, page 51).

- If a provider has a break in service, how long is the break in service, 1 day, 14 days, 30 days, or 45 days or longer in order for the background check not to remain valid?

**RESPONSE:** Providers who have a break in subsidy participation or individuals who have a break in employment, service or residence in the home must get new background checks if the break is for more than 6 months.

- We have a shortage of providers in our area. People call frequently regarding certification as a provider. We have referred them to licensing/voluntary registration, but none have completed the process. Our understanding is that we are no longer supposed to approve these people as local agency-approved providers. Is this correct-even though we are willing to complete this process? Why can we not continue certifying providers which would ensure greater quality-as we provide annual trainings and make frequent visits, if we are willing to do so. What is the solution to this problem? Please keep in mind we are in a rural area and do have the resources of other localities.

**RESPONSE:** The regulation allowing local agency approval of providers is being repealed and local departments of social services are encouraged to not approve any additional providers (see Broadcast 3798). Providers may be approved as unregulated providers if a subsidy recipient wants to use their services. You may consider contacting the Voluntary Registration Contract Agency and the Division of Licensing Programs about planning some provider recruitment activities.

- Please clarify for us whether the Non-Criminal Justice Interface (NCJI) and Virginia Criminal History Network (VCIN) are two separate means of obtaining criminal background information. Is it acceptable, per policy, for us to continue obtaining criminal background information via the NCJI on-line request as long as we mail one copy (signed by the child care worker) to the Virginia State Police? Using the NCJI has been very helpful for the clients, potential providers and child care workers as it has simplified and expedited the process for all concerned.

**RESPONSE:** The information below is from the state police website. VCIN and NCJI are two separate systems. Local departments may use NCJI for criminal history records and sex offender records since social services departments are authorized by the Code of Virginia to use that system.

“The Non-Criminal Justice Interface (NCJI) system provides for the searching of Virginia criminal history records using name and other descriptive information from remote PCs. This system is used by non-criminal justice agencies authorized by statute and private sector employers that sign an agreement with the Department of State Police.

To participate in NCJI, an agency must be located within the Commonwealth of Virginia, must sign an agreement with the Department of State Police, have access to the internet, and establish a billing account with the Department. NCJI inquiries are made through the World Wide Web (WWW) page on the internet.

NCJI can also be used to request a name search of Virginia’s Sex Offender Registry record information, both violent and non-violent offenders, for user agencies that are allowed to access this information by statute.”

- Can we require providers to get a national criminal background check? If not, can the state look into requiring this?

**RESPONSE:** This requirement is not a part of current revised policy for child care. The Code of Virginia § 63.2-1725 was amended by the 2006 Session of the General Assembly to require a national criminal background check for child care providers contingently effective July 1, 2007 if state funds are provided by the 2007 Session of the General Assembly.

- Does the policy citation below mean that the potential new provider doesn’t need to get new background checks if they have had these checks within three years prior to the application date? Even if they haven’t had any involvement with the subsidy program during that time?

Chapter D, p. 44, “The local department must not accept background checks that are dated more than three years prior to the date the signed service application is received.”

**RESPONSE:** The policy referenced was written this way to accommodate local government-approved recreation programs that went from being licensed to not being required to be licensed. Local departments may require new background checks (policy does not prohibit that), but in any case, they may not accept background checks completed more than three years before the provider is approved to receive subsidy payments.

- Does the response above conflict with guidance given that said, “Providers who have a break in subsidy participation or individuals who have a break in employment, service or residence in the home must get new background checks if the break is for more than 6 months”?

**RESPONSE:** The response above would apply to a provider who has never received subsidy or one who was inactive when the new child care policy went into effect October 1, 2006.

An individual who was a provider on October 1, 2006 and then has a break in service must get new background checks if the break is for more than 6 months.

- I have a new unregulated provider who already has copies of the background checks that were done within the last three years. Can I use them?

**RESPONSE:** Yes (Chapter D, VI. B. 3. b. on page 44).

- How do we remove a provider from the local agency website if they are no longer regulated?

**RESPONSE:** Contact the Division of Licensing Programs.

## **REDETERMINATION**

- Can we redetermine eligibility more often than once a year for cases that are not Head Start Wrap-Around? How often is too often?

**RESPONSE:** Reassessment, including eligibility redetermination, is required at least annually except for Head Start Wrap-Around cases. See Chapter D, page 36. Cases must not be redetermined for eligibility purposes more frequently than annually, unless changes require a redetermination.

- Does the special review have to be done on all the Head Start cases, or only the caretaker/in loco parentis cases?

**RESPONSE:** The intent is to count the income of caretakers. Chapter D page 28 - “NOTE: For Head Start Wrap-Around child care cases open on the effective date of this policy, local departments must perform a one-time-only income eligibility redetermination between March 1, 2007 and June 30, 2007 in order to count the income of legal guardians, other adults standing in loco parentis, and their minor children...After this one-time-only redetermination of families whose family units include legal guardians or persons standing in loco parentis, the redetermination...”

- Is it required to review all Head Start cases or just the cases of the Head Start caretakers between March 2007 and June 2007? Do we do nothing until then?

**RESPONSE:** For the first question, see Response above. For the second question, Chapter D, page 36 states “For Head Start Wrap-Around child care, once initial eligibility is determined, income eligibility will continue without redetermination as long as the child remains in Head Start/Early Head Start and is otherwise eligible.” If a change that would affect eligibility is reported prior to the dates of the one-time review, you would perform a redetermination based on those reported changes (Chapter D, Section V, I. 4. on page 37).

- Our Head Start program serves 4 year olds only. If it appears there will be no eligible children next year, do we have to do the one-time special review of Head Start Wrap-Around cases?

**RESPONSE:** Yes, if the program continues through the summer.

## **SPECIAL NEEDS**

- Does the fact that a child has an Individualized Education Program automatically mean that child is a child with special needs? Many children receive SSI because they have Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder – does that automatically mean they are a child with special needs?

**RESPONSE:** No. Agencies should request and receive statements from the professional involved in the child’s care that indicate the level of special care they require above and beyond the normal amount of child care provided (See Chapter D, page 54).

- Can child care assistance be provided for children with special needs if they are over the age of 13?

**RESPONSE:** Yes, with adequate documentation. See Chapter D, page 23 and page 54.

## **SUPPORT ENFORCEMENT**

- The mother of two children (1 and 3 years old) lives with her parents who are both employed. Customer has requested child care based on her employment as an office assistant working 20 to 25 hours per week at \$6.00 per hour. Mother works for the father of the children who owns his own business. The father does not support these children and mother has not pursued any support and therefore cannot apply for TANF. Does the local department have to approve child care so that the mother can go work a few hours for the father? Could the local department mandate that this father, who is a



financially responsible person, provide written proof of what support he provides?

**RESPONSE:** The agency has the right to question the woman's declaration about her income (especially if they suspect fraud) and to contact the father to request further information/clarification of the woman's income, but the worker cannot deny child care subsidy based solely on the father's failure/refusal to provide written proof of what he support he pays. If the applicant meets the non-financial and financial eligibility criteria for child care subsidy, the agency does not have the right to deny child care assistance for the hours she works.

Has the agency counseled the lady about the long-term benefits of pursuing child support? Child care policy does not prohibit this, but states in Chapter D, page 22, "Parents shall be informed of the full range of services offered by the agency." Chapter B on page 14 says, "The assessment process is a mutual problem/resource identification process between the service worker and the customer."

- Since registration or cooperation with DCSE is not a requirement for eligibility now, do we nix the Child Support Form?

**RESPONSE:** Child care does not require a child support form. However, clients may be encouraged to apply for support, if applicable.

## WAITING LIST

- Can you put a TANF education/training client on the fee waiting list? How?

**RESPONSE:** Yes. Enter into the Waiting List Database like all others.

- TANF Education - do you add them to the fee waiting list or do you pay for out of TANF funds?

**RESPONSE:** TANF Education (non-VIEW) is paid from budget lines 88304 and 88103 which means clients will need to be added to the waiting list if funding is not available in these budget lines. See Chapter D pages 66-68.

- Should we be putting TANF Education applicants on the Fee waiting list when there is a waiting list instead of serving them?

**RESPONSE:** Yes, if you do not have funds to cover the care.